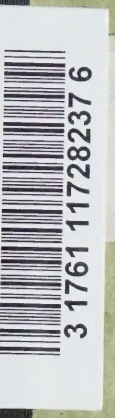

Aboriginal self-government

89-5E

Current Issue Review 96-2E

ABORIGINAL SELF-GOVERNMENT

Jill Wherrett
Political and Social Affairs Division

24 September 1996

Library of Parliament
Bibliothèque du Parlement

Research Branch

The Research Branch of the Library of Parliament works exclusively for Parliament, conducting research and providing information for Committees and Members of the Senate and the House of Commons. This service is extended without partisan bias in such forms as Reports, Background Papers and Issue Reviews. Research Officers in the Branch are also available for personal consultation in their respective fields of expertise.

Available in Canada through
your local bookseller
or by mail from
Canada Communication Group -- Publishing
Ottawa, Canada K1A 0S9

Catalogue No. YM32-1/96-2E
ISBN 0-660-16792-1

N.B. Any substantive changes in this publication which have been made since the preceding issue are indicated in **bold print.**

CE DOCUMENT EST AUSSI PUBLIÉ EN FRANÇAIS

CANADA

LIBRARY OF PARLIAMENT
BIBLIOTHÈQUE DU PARLEMENT

ABORIGINAL SELF-GOVERNMENT*

ISSUE DEFINITION

The issue of aboriginal self-government has become prominent in Canada over the past several decades. Attention has focused on aboriginal rights and constitutional reform, particularly recognition of the right to self-government in the *Constitution Act, 1982*, as well as legislative and policy changes. In addition, a number of major land claim settlements have been accompanied by self-government agreements. The self-government issue also has an international aspect. Many aboriginal people believe that the legal, political and policy processes within Canada cannot accommodate the level of political rights they seek and have pressed their claims in international forums, such as the United Nations.

Aboriginal peoples in Canada are defined in the *Constitution Act, 1982* as Indians, Inuit and Métis. In 1995, there were an estimated 995,000 Indians, 55,700 Inuit, and 195,642 Métis. Of the Indian population, 588,367 were status Indians, those registered under the *Indian Act*, most of whom are members of one of 608 bands in Canada. Currently about 58% of the status Indian population live on reserves. A larger proportion of the overall Indian population (status and non-status), however, now live in urban centres, adding complexity to the issue of self-government. The majority of Inuit live in the eastern arctic region of the Northwest Territories, but there are smaller Inuit populations in Quebec and Labrador.

BACKGROUND AND ANALYSIS

A. Aboriginal Approaches to Self-Government

Prior to contact with Europeans, aboriginal peoples relied on a variety of distinctive ways to organize their political systems and institutions. Later, many of these

---

* This paper replaces an earlier text (Current Issue Review 89-5) with the same title.

institutions were ignored or legally suppressed while the federal government attempted to impose a uniform set of vastly different Euro-Canadian political ideals on aboriginal societies.

For many aboriginal peoples, self-government is seen as a way to regain control over the management of matters that directly affect them and to preserve their cultural identities. Self-government is referred to as an "inherent" right, a pre-existing right rooted in aboriginal peoples' long occupation and government of the land before European settlement. Many aboriginal peoples speak of sovereignty and self-government as responsibilities given to them by the Creator and of a spiritual connection to the land. Aboriginal peoples do not seek to be granted self-government by Canadian governments, but rather to have Canadians recognize that aboriginal governments existed long before the arrival of Europeans and to establish the conditions that would permit the revival of their governments. Treaty Indians often point to treaties with the Crown as acknowledging the self-governing status of Indian nations at the time of treaty signing.

In an effort to achieve their self-government goals, Indian, Inuit and Métis groups have sought constitutional, legislative and policy changes. For status Indians a number of initiatives have increased local control under the *Indian Act* and allowed the negotiation of new legislative frameworks to replace that Act. However, many First Nations maintain that any form of delegated authority is inconsistent with an inherent right of self-government. Inuit have pursued self-government through public government arrangements in the north in conjunction with land claims, while the Métis have advanced various claims for land and self-government.

Aboriginal peoples have also drawn on the right of self-determination and international law to support their claims. The developing body of international law on human rights has focused much attention, in recent years, on the right to self-determination as it applies to aboriginal peoples. Aboriginal organizations have argued that the inherent right of self-government is an aspect of the right of self-determination recognized in the United Nations Charter and in the Draft Declaration of the Rights of Indigenous Peoples.

B. The Evolution of Federal Policy

In 1867, section 91(24) of the *Constitution Act, 1867* gave the federal government jurisdiction over Indians and lands reserved for the Indians. The first *Indian Act* was enacted in 1876, consolidating existing laws regarding Indians. A Supreme Court decision in 1939 also brought Inuit within federal responsibility. Métis, with the exception of those living in Métis settlements in Alberta, were not subject to special federal or provincial legislation.

Up to the 1950s, government policies attempted to assimilate aboriginal peoples into the larger non-aboriginal society. Indian band councils exercised limited, federally delegated power to govern a land base within reserves. The imposition of a system of elected band councils, until recently the only form of Indian government recognized in Canadian law, began in the nineteenth century, when the Minister of Indian Affairs was given powers to depose chiefs and councillors chosen through traditional Indian means. Such attempts to suppress traditional Indian governments continued as late as 1951. Under the band council system, the primary decision-making responsibility rests with the Minister of Indian Affairs and Northern Development or with the Department. Unlike a municipal corporation, band councils do not have a clear legal status as an entity with the powers of a natural person. This frequently creates problems when bands wish to engage in normal business or economic development activities. The band councils' financial capacities are also limited. All decisions relating to the expenditure of band capital moneys are made by the Minister, with the consent of the band council. With the approval of Cabinet, bands may be permitted to manage their revenue moneys.

In the 1950s, the transfer of Indian Affairs programs to bands, provinces and other federal agencies began. The devolution of programs continues up to the present day. In 1969 the federal government issued its White Paper on Indian Policy which essentially proposed the termination of special status for Indians and the devolution of services and programs to the provinces. Intense Indian opposition led to the eventual withdrawal of the policy and mobilized national political organization among aboriginal peoples in Canada. While aboriginal peoples have asserted their rights to self-government since contact with

Europeans, the drive for aboriginal self-government began during the 1970s to take on greater force and coordination at the national level.

In 1982, a Special Committee of the House of Commons on Indian Self-Government was appointed to review legal and institutional issues related to the status, development and responsibilities of band governments on reserves. Its 1983 report, known as the Penner Report after Committee chair Keith Penner, recommended that the federal government recognize First Nations as a distinct order of government within the Canadian federation, and pursue processes leading to self-government. It proposed constitutional entrenchment of self-government and, in the short term, the introduction of legislation to facilitate it.

The Penner Report presented the basis for a significant departure from then current federal policies regarding Indian bands. (It should be noted that the Committee examined only Indian self-government, not self-government for all aboriginal peoples.) The report raised the profile of aboriginal issues and had a significant impact on the constitutional debate. It also contributed to the introduction of Bill C-52, an effort to create a legislative framework for band self-government. This bill was opposed by some aboriginal groups and died on the order paper prior to the 1984 general election.

Over the next few years, constitutional issues dominated discussions of aboriginal self-government (see below). As an alternative, in March 1985 the federal government adopted a "two-track" approach to self-government. On one track were constitutional negotiations. On the second track were community-based negotiations with Indian bands, and a tripartite process between the federal government, provincial governments, and Métis and non-status Indians. A cabinet minister was designated Interlocutor for Non-Status Indians and Métis and was to serve as lead minister for tripartite negotiations. In April 1986, the federal government released a new Policy on Community-Based Self-Government Negotiations. This was an initiative to increase band control and decision-making and provide more scope for community government than was possible under the *Indian Act*, through legislated self-government agreements.

Another avenue for developing self-governing arrangements was the process under which the federal government, since 1973, has negotiated comprehensive land claims settlements. Comprehensive claims are defined as claims based upon traditional use and occupancy and unextinguished aboriginal title (i.e., not dealt with by treaty or "superseded by law"). The settlement of these claims usually involves a broad range of matters, hence the designation "comprehensive." The policy as formally stated in 1981 allowed negotiation of "self-government on a local basis" but excluded "political matters." According to the revised statement of comprehensive claims policy in 1986, a new feature of the policy was the possibility of negotiations on a broader range of self-government matters. The 1986 policy statement explicitly provided, however, that self-government arrangements negotiated through claims settlements would not receive constitutional protection without a constitutional amendment to that effect. This meant that the government preferred to negotiate self-government arrangements separately from other matters in order to avoid entrenchment under s. 35(3) of the *Constitution Act, 1982*. Subsection 35(3) provides that the recognition and affirmation of existing treaty rights in s. 35(1), includes "rights that now exist by way of land claims agreements or may be so acquired." A number of recent agreements in the north have included a self-government component.

C. Constitutional Change

The demands of aboriginal organizations led to the recognition and affirmation of existing aboriginal and treaty rights in the *Constitution Act, 1982*. Four constitutional conferences were held between 1983 and 1987 to attempt to further define those rights. The first amendments to the 1982 Constitution were agreed to at the 1983 conference. They included recognition of rights arising from land claims agreements and a commitment to include aboriginal peoples in constitutional conferences dealing with their rights. In the conferences that followed, aboriginal self-government emerged as the dominant issue. However, in the absence of a clear understanding of the content of a right to self-government, parties failed to reach an acceptable agreement.

Following the failure of the 1987 First Ministers' Conference on Aboriginal Rights to produce a self-government agreement, governments turned their attention to the

broader constitutional agenda. In the process, aboriginal peoples were excluded from participation in the constitutional negotiations that led to the 1987 Meech Lake Accord. This produced strong aboriginal protests that contributed to the Accord's defeat in 1990. In September 1991, the federal government put forth proposals for constitutional reform that did address aboriginal self-government. Subsequently, various commentaries or proposals were advanced by other parties, including the Royal Commission on Aboriginal Peoples and the Special Joint Committee on a Renewed Canada. After much negotiation, the provincial premiers, territorial government leaders, aboriginal organizations and the federal government agreed, as part of the 1992 Charlottetown Accord, on amendments to the *Constitution Act, 1982* that would have included recognition of the inherent right of self-government for aboriginal people. For the first time, aboriginal organizations had been full participants in the talks; however, the Accord was rejected in a national referendum. With regard to the aboriginal provisions, concerns over the content of self-government continued to be voiced. As well, not all members of the aboriginal community had approved of the negotiation process or the Accord itself.

During the debates leading up to and following the referendum of October 1995, Aboriginal peoples raised issues related to their self-determination in the event of Quebec's secession. The Crees of Quebec argued that no annexation of them or their territory to an independent Quebec should take place without their consent, and that if Quebec has the right to leave Canada then the Cree people have the right to choose to keep their territory in Canada. Following the referendum, aboriginal groups asserted that they must have a role in any future constitutional discussions.

In late November 1995, the federal government introduced legislation to commit Ottawa to seek the consent of five regions - B.C., Quebec, Ontario, and a majority of Atlantic and Prairie provinces - before it could approve constitutional change. Aboriginal groups appearing before a special committee of the Senate studying the bill expressed opposition to it. They raised concerns about aboriginal peoples being excluded from constitutional considerations, the potential for the legislation to limit future possibilities for amendments regarding aboriginal rights, and about the ability of the federal government to

protect the national unity and territorial integrity of Canada. Despite their continuing opposition, the bill became law on 2 February 1996.

D. The Current Federal Approach

The Department of Indian Affairs identified several goals regarding the implementation of self-government in its January 1996 "Framework for Action (A Work in Progress)." The goals include comprehensive final agreements in several regions; sectoral agreements on education, oil and gas management, and First Nations land management; continuing progress on departmental dismantling in Manitoba; amendments to the *Indian Act* to remove offensive and intrusive sections; and devolution of land management and election functions to First Nations.

1. Self-Government Policy

With few prospects for constitutional change following the 1992 referendum, the Liberal government elected in 1993 committed itself to recognizing the inherent right of self-government and implement it without reopening constitutional discussions. On 10 August 1995, after 18 months of consultations with aboriginal, provincial and territorial leaders, the federal government formally announced its new policy. Key principles of the policy are:

- the inherent right is an existing aboriginal right under section 35 of the *Constitution Act, 1982*.
- self-government will be exercised within the existing Canadian constitution.
- the *Canadian Charter of Rights and Freedoms* will apply to aboriginal governments.
- federal funding for self-government will be achieved through the reallocation of existing resources.
- where all parties agree, rights in self-government agreements may be protected in new treaties under section 35 of the Constitution, as additions to existing treaties, or as part of comprehensive land claims agreements.
- laws of overriding federal and provincial importance will prevail, and federal, provincial, territorial and aboriginal laws must work in harmony.

Under this policy, the range of subjects that the federal government is willing to negotiate includes matters internal to the group, integral to aboriginal culture, and essential to operating as a government or institution. Examples are the establishment of government structures and internal constitutions; membership; marriage; aboriginal languages, culture and religion; education; health; social services; policing; enforcement of aboriginal laws; and others. In a number of other areas, such as divorce, the administration of some justice issues, gaming, and fisheries co-management, the federal government is prepared to negotiate some measure of aboriginal jurisdiction. A number of other subject matters are not open to negotiation, however. These can be grouped under two headings: 1) powers related to Canadian sovereignty, defence and external relations; and 2) other national interest powers. Financing self-government would be the shared responsibility of federal, provincial, territorial and aboriginal governments.

The Minister of Indian Affairs has a mandate to enter into negotiations with First Nations, the Inuit, and Métis groups in the north. The Federal Interlocutor for Métis and Non-Status Indians has a mandate to enter into negotiations with Métis south of the 60th parallel and Indian people who reside off a land base. For groups without a land base, the government is prepared to consider forms of public government, the devolution of programs and services, the development of institutions providing services, and arrangements in those subject matters where it is feasible to exercise authority in the absence of a land base.

Reactions to this policy have been varied. The Chief of the Assembly of First Nations, the national status Indian organization, has rejected the federal approach, arguing that it would treat First Nation governments like municipal governments.

2. Manitoba Dismantling

The federal government is also involved in several other initiatives to provide more authority for aboriginal groups. In March 1994, the Minister of Indian Affairs announced that DIAND's regional office in Manitoba would be dismantled and its responsibilities transferred to the First Nations of Manitoba. A memorandum of understanding was signed between Canada and the Assembly of Manitoba Chiefs (AMC) in

April 1994, and a Framework Agreement to begin the process of dismantling was signed in December 1994.

The Framework Agreement sets out the process to dismantle DIAND operations, develop Manitoba First Nations government institutions, and restore to Manitoba First Nations governments the jurisdictions currently held by DIAND and other federal departments. Three "fast-track" areas (education, fire protection, and capital management) are designed to provide progress in the short term. Discussions between the Assembly of Manitoba Chiefs and federal officials on the details of the Framework Agreement began in April 1996.

3. Sectoral Agreements

Other regional initiatives include agreements on the transfer of education jurisdiction, the creation of pilot projects in Alberta and Saskatchewan for the transfer of authority for oil and gas administration, and an agreement regarding land management.

On 3 May 1996 the Minister of Indian Affairs and Mi'kmaw Chiefs for Nova Scotia signed an Agreement-in-Principle signifying the intent of both parties, with the involvement of the government of Nova Scotia, to negotiate a final agreement resulting in the transfer of jurisdiction for Mi'kmaw education to 13 First Nations in Nova Scotia. Conclusion of a Final Agreement will lead to the transfer of $130 million for Mi'kmaw education to the Nova Scotia Mi'kmaw over a five-year period. On 23 June 1996, Minister Irwin signed a Framework Agreement with ten Ontario First Nations from the Fort Frances Tribal Area to transfer education jurisdiction. A draft Agreement-in-Principle should be completed by the end of 1996.

In the area of land management, chiefs of 13 First Nations from British Columbia, Alberta, Saskatchewan, Manitoba and Ontario signed a Framework Agreement with the Minister of Indian Affairs on 12 February 1996. The agreement is intended to give the First Nations control over reserve lands and resources and end the discretion of the Minister under the *Indian Act* over land management decisions on reserves. The agreement,

developed during 1994-95, applies only to those First Nations that are signatories. The Final Agreement will be given effect through federal legislation.

In 1995, DIAND also signed a series of Memorandums of Understanding with First Nations in Alberta and Saskatchewan enabling them to assume oil and gas management functions previously discharged by Indian Oil and Gas Canada.

4. Amendments to the *Indian Act*

As part of its policy on self-government, the federal government is prepared to make amendments to the *Indian Act* that will increase management and control at the community level. In 1985, substantial amendments were made through Bill C-31, primarily to remove sexually discriminatory provisions related to entitlement to Indian status and band membership. The 1985 amendments, which continue to be the subject of some controversy, also gave bands greater control to determine their own membership.

In June 1988, the "Kamloops Amendment" increased band authority by expressly granting band councils the power to levy local taxes on Indian and non-Indian persons with interests in reserve lands. The amendment facilitated the power of bands to develop their own lands through leases to non-Indian persons.

In April 1995, Minister Irwin wrote to chiefs across the country to ask for their views on possible short-term amendments to remove offensive or intrusive sections of the *Indian Act*. On 1 September 1995, the minister again wrote to First Nations, requesting that they review the recommendations that had been developed. The department received further responses and on 17 September 1996 Minister Irwin issued a letter and a list of potential amendments to chiefs and leaders of First Nation Organizations. Drafting of a bill to make the changes has begun. The proposed amendments fall into four major categories: restructuring ministerial and First Nations powers to increase local control; streamlining procedures; repealing unused sections of the Act; and validating current practices. Key proposals include increasing the term of chiefs and councillors who are subject to *Indian* Act electoral provisions to three years, providing new by-law powes to First Nations regarding lands and landlord-tenant relations, and giving bands the legal capacity to sue and be sued and

to hold land. If there is First Nation support, the Minister is prepared to introduce a bill prior to the end of 1996. Ovide Mercredi, national chief of the Assembly of First Nations, has voiced concerns, however, that the amendments may threaten First Nations identity and diminish federal responsibility for aboriginal people.

E. Self-Government Arrangements

Over last two decades, several self-government arrangements have been developed, both in conjunction with land claim settlements and independent of them.

1. James Bay and Northern Quebec Agreement, Northeastern Quebec Agreement

The Cree and Naskapi First Nations of northern Quebec were the first aboriginal groups to negotiate self-government as part of their land claim agreements (the James Bay and Northern Quebec Agreement and Northeastern Quebec Agreement) in 1975 and 1978. Provisions for local government were implemented in 1984 by the *Cree-Naskapi (of Quebec) Act*, which replaced the *Indian Act* for the Cree and Naskapi, and limited the responsibilities of the federal government in the day-to-day administration of band affairs and lands. All the Cree and Naskapi bands were incorporated and some of their lands constitute municipalities or villages under the Quebec *Cities and Towns Act*. Band corporations have by-law powers similar to those possessed by local governments under provincial legislation.

The James Bay and Northern Quebec Agreement also provided for a form of government for the Inuit signatories. *An Act concerning Northern villages and the Kativik Regional Government (Kativik Act)* established Inuit settlements in northern Quebec as northern village municipalities under provincial legislation. The Kativik Regional Government has the powers of a northern village municipality over those parts of the territory that are not part of the village corporations, and regional powers over the whole territory including the municipalities. The governments are not ethnic in character -- all residents, aboriginal and non-aboriginal, may vote, be elected and otherwise participate; however, over 90% of the population in the area are Inuit and benefit under the James Bay Agreement.

2. Sechelt Indian Band

In May 1986, the *Sechelt Indian Band Self-Government Act* was passed after 15 years of negotiation and consultation. This was a specific piece of legislation that allowed the Sechelt Indian Band, located on the British Columbia coast about 50 kilometres north of Vancouver, to move toward self-government. The Act granted authority to the Sechelt band to exercise delegated powers and negotiate agreements about specific issues. Under the legislation, the community was set up as a legal entity with the power to enter into contracts and agreements; acquire, sell and dispose of property; and spend, invest and borrow money. The community was empowered to set up its own constitution establishing its government, membership code, legislative powers and system of financial accountability. The elected council has the power to pass laws on a range of matters, including access to and residence on Sechelt lands, administration and management of lands belonging to the band, education, social welfare and health services, and local taxation of reserve lands. The legislation transferred fee-simple title of Sechelt lands to the band and contains a provision for the negotiation of funding agreements in the form of grants or transfer payments administered by the band council. The Sechelt Indian band has municipal status under provincial legislation.

Some aboriginal groups have criticized the Sechelt model as municipal-type arrangement, governed by provincial legislation. The Sechelt people contend that theirs is a unique model, established in response to their particular situation, and not intended to constrain other communities.

3. Yukon First Nations

Self-government for Yukon First Nations is part of a comprehensive land claim settlement. The land claim of the Council for Yukon Indians (CYI) was accepted for negotiation in 1973. In 1989 the federal government approved the negotiation of self-government agreements parallel to negotiations for the Yukon First Nations Final Land Claim Agreements. The CYI, the government of the Yukon and the federal government signed an Umbrella Final Agreement (UFA) on 29 May 1993. The UFA established the basis for the negotiation of final land claim settlements and self-government agreements with each of the 14

Yukon First Nations. The UFA provides land, cash compensation, wildlife harvesting rights, land and resource co-management, and protection for the culture and heritage of Yukon Indians. It also sets out the framework for individual Yukon First Nations Final Agreements, which will incorporate the UFA and address the specific circumstances of each First Nation. The First Nations will no longer function under the *Indian Act*.

Legislation has been passed for four self-government agreements for Yukon First Nations: Vuntut Gwitchin, Nacho Nyak Dun, Champagne and Aishihik, and Teslin Tlingit. Each of the First Nations will exercise law-making powers on settlement lands in the areas of land use and control, hunting, trapping and fishing, licensing and the regulation of businesses. The First Nations will have the power to enact laws for their citizens in the Yukon in the areas of language, culture, health care and services, social and welfare services, child welfare, education, and other areas. Constitutions will include membership codes, governing bodies and their powers, composition and procedures, financial reporting systems, and procedures to protect the rights of citizens. Five-year Financial Transfer Agreements to provide funding for programs and services and implementation have been negotiated.

On 21 June 1996, the Selkirk First Nation and the federal and territorial governments reached agreement on a land claim settlement. A self-government agreement has yet to be reached, but is expected to be completed shortly. Land claim agreements have also been reached with the Little Salmon-Carmacks and Ta'an Kwachan First Nations.

4. Nunavut

For decades, Inuit of the central and eastern arctic have been calling for the creation of a new territory. This effort took on added impetus in 1976 when the Inuit Tapirisat of Canada submitted a proposal to the federal government requesting the creation of a new territory to be called Nunavut ("our land" in the Inuktitut dialect of the region). A 1982 plebiscite and several years of negotiations followed. A key provision of the Tungavik Federation of Nunavut land claim agreement, which was finalized in 1991, was the creation of a new territory. The final agreement committed Canada, the Government of the Northwest Territories, and the Tungavik Federation of Nunavut to negotiate a political accord to deal

with powers, financing and timing for the establishment of the Nunavut government. This political accord was formally signed in 1992.

The Nunavut territory and government, which will be established on 1 April 1999, will have jurisdictional powers and institutions similar to those of the territorial government. The *Nunavut Act* establishes the legal framework for the new government. A nine-member Nunavut Implementation Committee is providing advice to the federal and territorial governments and Nunavut Tunngavik Incorporated on the creation of Nunavut, including capital infrastructure needs, the design of the new government, a process for the first election of the new territorial assembly, and training. Iqaluit was chosen as the capital in a December 1995 referendum. An Interim Commissioner should be appointed by the fall of 1996.

Inuit control through public government is premised upon the existence of an Inuit majority in Nunavut. Currently, 85% of the population of the region is Inuit.

F. Other Developments

1. Land Claims and Self-Government

A number of other land claims and self-government negotiations are proceeding. On 22 March 1996, the governments of Canada and British Columbia and the Nisga'a Tribal Council signed a land claim Agreement-in-Principle which will serve as the foundation for B.C.'s first modern treaty. The landmark agreement, which comes after years of negotiations, provides for a cash payment to the Nisga'a of $190 million and the establishment of a Nisga'a Central Government with ownership of and self-government over approximately 2,000 square kilometres of land in the Nass River Valley. The parties must now negotiate a final agreement. The settlement has raised some opposition in the province, particularly among those in the forest and fishing industries who object to aspects of the agreement that affect those areas.

The Dogrib and the governments of Canada and the Northwest Territories initialled the Dogrib Framework Agreement on 19 April 1996. It outlines a process of negotiation for a comprehensive land claim and self-government agreement. Parties are committed to reach an Agreement-in-Principle by mid-1997.

On 7 May 1996, the Inuvialuit and Gwich'in of the Northwest Territories signed a process agreement with the federal and Northwest Territories governments for their negotiations toward a self-government Agreement-in-Principle.

2. British Columbia Treaty Process

On 1 March 1996, the *British Columbia Treaty* Commission Act came into effect, formally establishing the B.C. Treaty Commission together with the provincial *Treaty Commission Act* and a resolution of the B.C. First Nations Summit. Since the Commission began operating in 1993, it has received 48 Statements of Intent to negotiate, representing over 70% of B.C.'s 196 First Nations. Framework Agreements have been signed with eight First Nations.

3. Royal Commission on Aboriginal Peoples

The Royal Commission on Aboriginal Peoples, appointed in August 1991, is expected to release its full final report in late 1996. Final reports have been released on the topics of the relocation of Inuit families to the High Arctic (May 1994), suicide (February 1995), the land claims policy and extinguishment (March 1995), and justice (February 1996).

4. International Issues

A Draft Declaration on the Rights of Indigenous Peoples was completed in 1994 after 12 years of negotiations between governments and indigenous groups. In August 1995, the U.N. Economic and Social Council passed a resolution to establish a working group at the U.N. Human Rights Commission to further elaborate the draft document. Canada is included in this group and participated in meetings in November 1995. Aboriginal organizations have criticized the Canadian government for attempting to water down aboriginal rights to self-determination in the document. The working group on the Draft Declaration is scheduled to meet again in the fall of 1996.

PARLIAMENTARY ACTION

1984 - *Cree-Naskapi (of Quebec) Act* was passed by Parliament, implementing a chapter of the James Bay and Northern Quebec Agreement.

1985 - An *Act to amend the Indian Act* was passed by Parliament granting Indian band councils new by-law powers over band membership, reserve residence and alcohol regulation.

1986 - Parliament passed the *Sechelt Indian Band Self-Government Act*, providing for the first Indian self-government legislation independent of a land claims agreement.

1988 - An *Act to amend the Indian Act (designated lands)* granted Indian band councils clear powers to levy local taxes on Indians and non-Indian reserve residents.

1993 - The *Nunavut Act* and the *Nunavut Land Claims Agreement Act* were given Royal Assent, the final step towards the creation of a new territory.

1994 - Bill C-34, the *Yukon First Nations Self-Government Act* received Royal Assent on 7 July 1994. The self-government agreements were negotiated under the Community-Based Self-Government policy developed by the previous administration.

1995 - Bill C-55, the *Yukon Surface Rights Board Act*, received Royal Assent on 15 December, concluding the three-part legislative implementation of the Council for Yukon Indians land claim.

1995 - Bill C-107, the *British Columbia Treaty Commission Act*, was introduced to Parliament on 18 October. The bill received Royal Assent on 1 December.

Bill S-10, An Act providing for Self-Government by the First Nations of Canada, was given First Reading in the Senate on 30 March. The subject matter of the bill was referred to the Senate Committee on Aboriginal Peoples for study. The bill died with the prorogation of Parliament.

1996 - Bill S-9, An Act providing for Self-Government by the First Nations of Canada, was given First Reading in the Senate on 13 June. (The content is the same as that of Bill S-10).

CHRONOLOGY

1763 - The Royal Proclamation recognized the rights of the "several Nations or Tribes of Indians ... who live under our protection."

1867 - Legislative authority with respect to "Indians, and Lands reserved for the Indians" assigned to Parliament at Confederation.

1876 - First consolidated *Indian Act*.

1951 - Last major revision of the *Indian Act*.

1969 - The federal government issued its White Paper on Indian Policy, proposing termination of special status. The Paper was withdrawn due to Indian opposition.

1975 - James Bay and Northern Quebec Agreement signed.

17 April 1982 - *Constitution Act, 1982*, s. 35 affirmed and recognized the existing aboriginal and treaty rights of the aboriginal people of Canada.

14-16 March 1983 - First Ministers' Conference on Aboriginal Constitutional Matters. Agreement was reached on a constitutional amendment specifying that "existing treaty rights" in s. 35 includes existing and future land claims settlements.

3 November 1983 - Report of the Special Committee on Indian Self-Government.

8-9 March 1984 - At the First Ministers' Conference, Prime Minister Trudeau proposed constitutional recognition "that the aboriginal peoples of Canada have the right to self-governing institutions that will meet the needs of their communities." No agreement was reached at the Constitutional Conference.

June 1984 - Passage of the *Cree-Naskapi (of Quebec) Act*.

2-3 April 1985 - At the First Ministers' Conference, Prime Minister Mulroney tabled a proposal for constitutional recognition of aboriginal self-government; no agreement was reached.

17 April 1985 - An *Act to amend the Indian Act*, S.C. 1985, c. 27, came into effect, allowing band control of membership.

15 April 1986 - The Honourable David Crombie, Minister of Indian Affairs and Northern Development, issued a policy statement on Indian Self-Government.

9 October 1986 - The *Sechelt Indian Self-Government Act*, S.C. 1986, c. 2, received Royal Assent.

26-27 March 1987 - The final First Ministers' Conference required by s. 37.1 of the *Constitution Act* failed to produce a self-government amendment.

August 1991 - The federal government appointed a Royal Commission on Aboriginal Peoples.

August 1992 - An agreement on constitutional reform was reached in Charlottetown; it would have entrenched the inherent right of aboriginal peoples to self-government in the *Constitution Act, 1982*.

October 1992 - The Charlottetown Accord was rejected in a national plebiscite.

7 July 1994 - Bill C-34, the *Yukon First Nations Self-Government Act*, was granted Royal Assent.

7 December 1994 - The Minister of Indian Affairs and Northern Development and the Grand Chief of the Assembly of Manitoba Chiefs signed a Framework Agreement setting out the process for dismantling DIAND regional operations in Manitoba and permitting negotiations to transfer jurisdiction in various areas to First Nations control.

10 August 1995 - The federal government formally launched a new process for negotiating aboriginal self-government, based on the recognition of the inherent right self-government as a right under the Constitution.

22 March 1996 - Nisga'a land claim Agreement-in-Principle signed.

3 May 1996 - Education Agreement-in-Principle signed by Minister of Indian Affairs and Mi'kmaw Chiefs from Nova Scotia.

21 June 1996 - National Aboriginal Day declared by Minister of Indian Affairs Ron Irwin.

SELECTED REFERENCES

Cameron, K. and G. White. *Northern Governments in Transition: Political and Constitutional Developments in the Yukon, Nunavut and the Western Northwest Territories*. The Institute for Research on Public Policy, Montreal, 1995.

Canada, Department of Indian Affairs and Northern Development. *Federal Policy Guide, Aboriginal Self-Government: The Government of Canada's Approach to the Implementation of the Inherent Right and the Negotiation of Aboriginal Self-Government*. Minister of Indian Affairs and Northern Development, Ottawa, 1995.

Canada. House of Commons Special Committee on Indian Self-Government. *Second Report: Indian Self-Government in Canada*. 1st Session, 32nd Parliament, Issue No. 40.

Grand Council of the Crees (of Quebec). *Sovereign Injustice: Forcible Inclusion of the James Bay Crees and Cree Territory into a Sovereign Quebec*. Grand Council of the Crees, Nemaska, Quebec, 1995.

Green, Joyce. "Constitutionalising the Patriarchy: Aboriginal Women and Aboriginal Government." 4 *Constitutional Forum* 110, Summer 1993.

Hamilton, A.C. *A New Partnership: Report of the Honourable A.C. Hamilton, Fact Finder*. Minister of Indian Affairs and Northern Development, Ottawa, 1995.

Hogg, P. and M.E. Turpel. "Implementing Aboriginal Self-Government: Constitutional and Jurisdictional Issues." *The Canadian Bar Review*. Vol. 74, No. 2, June 1995, p. 187-224.

Little Bear, Leroy, Menno Boldt and J. Anthony Long, eds. *Pathways to Self-Determination: Canadian Indians and the Canadian State*. University of Toronto Press, Toronto, 1984.

Peters, E., ed. *Aboriginal Self-Government in Urban Areas*. Institute of Intergovernmental Relations, Queen's University, Kingston, 1995.

Royal Commission on Aboriginal Peoples, *Aboriginal Self-Government: Legal and Constitutional Issues*. Royal Commission on Aboriginal Peoples, Ottawa, 1995.

Royal Commission on Aboriginal Peoples. *Partners in Confederation: Aboriginal Peoples, Self-Government and the Constitution*. Supply and Services Canada, Ottawa, 1993.

ACCOPRESS®

NO. 2507

BF - RED	BY - YELLOW
BG BLACK	BA TANGERINE
BD GREY	BB ROYAL BLUE
BU BLUE	BX - EXECUTIVE RED
BP - GREEN	

SPECIFY NO & COLOR CODE

ACCO CANADIAN COMPANY LTD.
TORONTO CANADA